

**U.S. BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

**Honorable Stephen L. Johnson
Thursday, October 18, 2012**

Current as of 10/16/2012 at 4:04 PM

San Jose Courtroom 3099

**U.S. Courthouse and Federal Bldg.
280 S 1st Street
San Jose, CA 95113**

9:30 AM **08-50981** Audra M. Fischenich
Ch 13

Trustee: Derham-Burk

Moving: Renee C. Mendoza

Opposing:

Matter: Application for Compensation of Fees: \$4,722.50 and Reimbursement of Expenses: \$485.59 by
Counsel for Debtor, Cathleen Cooper Moran (56)

Comment Tentative Ruling: Granted.

9:30 AM **09-52532** Benjamin De La Cruz Icasiano and
Ch 13 Cynthia Nazario Icasiano

Trustee: Derham-Burk

Moving: Javed I. Ellahie

Opposing:

Matter: Motion for Authorization to Modify Loan with Secured Lender, GMAC Mortgage, LLC (2723
Nicolson Circle, Woodland, CA 95776) by Debtor (78)

Statement of non-opposition filed by trustee

Comment Tentative Ruling: Granted

9:30 AM **09-58689** Allen J. Myers and
Ch 13 Roxanne E. Myers

Trustee: Derham-Burk

Moving: Ben E. Dupre

Opposing:

Matter: Motion to Withdraw as Attorney of Record for Debtors by Ben Dupre (47)

Comment Tentative Ruling: This matter will be called.

9:30 AM **09-61178** Ismael Gomez and
Ch 13 Barbara Gomez
Trustee: Derham-Burk

Moving: Michael K. Mehr

Opposing:

Matter: Motion for Approval of Sale of Real Property by Debtor (122)

4

***Stmt of Non-Opp fld by Trustee 10/4/12**

Comment Tentative Ruling: Service is defective. Per FRBP 6004(c), all lienholders must be served in accordance with FRBP 7004. Motion was not served on lienholders consistent with FRBP 7004.

9:30 AM **10-51368** Jun Glen Yuipco and
Ch 13 Emily Duenas Lozaldo
Trustee: Derham-Burk

Moving: Cathleen Cooper Moran

Opposing:

Matter: Application for Compensation of Fees: \$19,240.31 and Reimbursement of Expenses: \$1,144.45 by Counsel for Debtor, Cathleen Cooper Moran (176)

5

Comment Tentative Ruling: With counsel's voluntary reduction, granted.

9:30 AM **11-51143** Kurt Ahmet Ugur and
Ch 13 Michele Sheila Ugur
Trustee: Derham-Burk

Moving: Ronald L. Gruzen

Opposing:

Matter: Hearing re Objection to Confirmation of Second Amended Plan & Request to Dismiss or Convert Case by BANK OF AMERICA, N.A. (31)

6

Comment Tentative Ruling: Matter will be called. Debtors counsel to address feasibility of plan premised on sale of property or restaurant not owned by debtor with scheduled value of \$0.

9:30 AM **11-52072** Fawzy Ahmed Ismail
Ch 13
Trustee: Derham-Burk

Moving: Tomas E. Margain

Opposing:

Matter: Hearing re Objection to Confirmation of 2nd Amd Plan by Mario Solis and Pedro Soberano (27)

7

Comment Tentative Ruling: Objection to plan overruled based on judgment obtained in AP#11-5263.

9:30 AM **11-52550** Darelda Lucia Medina
Ch 13
Trustee: Derham-Burk

Moving: Brette L. Evans

Opposing:

Matter: Motion To Authorize Mortgage Modification by Debtor (91)

8

***Stmt of Non-Opp fld by Trustee 9/26/12**

Comment **Tentative Ruling: Granted**

9:30 AM **11-52611** Mone Hanagan and
Ch 13 John C. Hanagan
Trustee: Derham-Burk

Moving: Christelle Nicole Ramseyer

Opposing:

Matter: Hearing re Objection to Claim #4 (Aurora Loan Services, LLC by Debtor (46) (cont fr 8/23, 9/20)

9

Comment **Tentative Ruling: Matter will be called.**

9:30 AM **11-54585** Jorge Alberto Ramirez and
Ch 13 Celia Garcia Ramirez
Trustee: Derham-Burk

Moving: Devin L. Pace

Opposing:

Matter: Motion to Dismiss Case for Non-Payment (Pre-Confirmation) Pursuant to 11 U.S.C. Sec. 1307(c)(1) by Trustee (52)

10

Comment **Tentative Ruling: Matter will be dismissed. Debtors response to motion does not comply with local rules which require law and facts to support objection or request for hearing. See BLR 9013-1, 9014-1(c)(2).**

9:30 AM **11-54704** Lorena B. Rivera and
Ch 13 Sergio S. Munoz
Trustee: Derham-Burk

Moving: Brette L. Evans

Opposing:

Matter: Motion To Authorize Mortgage Modification by Debtor (48)

11

***Stmt of Non-Opp fld by Trustee 9/26/12**

Comment **Tentative Ruling: Granted**

9:30 AM **11-56190** Hector Badillo
Ch 13
Trustee: Derham-Burk

Moving: Hector Bagley

Opposing:

Matter: Hearing re Objection to Confirmation of Plan by Craig Bagley (22)

12

Comment **Tentative Ruling: Objection will be overruled, subject to plan being confirmed.**

9:30 AM 11-56239 MyHanh Thi Tran

Ch 13

Trustee: Derham-Burk

Moving: Michael H. Luu

Opposing:

13

Matter: a) Motion to Vacate Dismissal and Reinstate Chapter 13 case by Debtor (63)

b) Response by Trustee

Comment Tentative Ruling: Court finds trustee's statement of facts correct. Court will exercise discretion to vacate dismissal. No fees may be charged by debtor's counsel for the motion to vacate.

9:30 AM 11-57319 Janet E. Toro

Ch 13

Trustee: Derham-Burk

Moving: Donald P. Brigham

Opposing:

14

Matter: a) Motion to Dismiss And For 180-Day Bar to Subsequent Bankruptcy Filing by YORKTOWN FUNDING, INC. (20) (Cont fr 5/17, 8/23)

b) Opposition by Debtor

Comment Tentative Ruling: Matter will be called.

9:30 AM 11-57449 Ramon Martinez, Jr.

Ch 13

Trustee: Derham-Burk

Moving: Michael K. Mehr

Opposing:

15

Matter: Motion for Sale of Real Property by Debtor (24) (cont fr 9/20)

*Stmt of Non-Opp fld by Trustee 9/7/12

Comment Tentative Ruling: Granted, subject to approval by first lienholder. In future, counsel's motion to sell must comply with BR 9014 and 7004 (service on lending institutions by certified mail if FDIC insured).

9:30 AM 11-58890 Victor S. Khan and

Ch 13

Yvonne M. Khan

Trustee: Derham-Burk

Moving: Gary Paul

Opposing:

16

Matter: a) Motion for Reconsideration of Order for Dismissal With Bar To Re-Filing, or in the Alternative, Motion Vacating Dismissal Order by Debtors (37)

b) Opposition by Trustee

Comment Tentative Ruling: matter will be called.

9:30 AM **11-59850** Richard V. Rodarte and
Ch 13 Lynda M. Rodarte
Trustee: Derham-Burk

Moving: James S.K. Shulman

Opposing:

Matter: Motion for Sale of Property by Debtor (18)

17

***Stmt of Non-Opp fld by Trustee 9/27/12**

Comment **Tentative Ruling: Granted. In future, notice needs to be served on all creditors per FRBP 2002(a)(2) and 6004(a). The motion papers need to be served on all lienholders in accordance with FRBP 7004. See FRBP 6004(c) and 9014.**

9:30 AM **11-59988** Ralph Theodule and
Ch 13 Deborah L. Theodule
Trustee: Derham-Burk

Moving: Lemuel Bryant Jaquez

Opposing:

Matter: Hearing re Objection to Confirmation of Plan First Amended by Bank of America, N.A. (37)

18

Comment **Tentative Ruling: Unless Bank of America contends no loan mod was filed, objection overruled.**

9:30 AM **11-61222** Dean Hillis Ashworth
Ch 13
Trustee: Derham-Burk

Moving:

Opposing:

Matter: Application for Compensation of Fees: \$1,000.00 and Reimbursement of Expenses: \$0.00 by Counsel for Debtor, The Law Offices of David A. Boone (22)

19

Comment **Tentative Ruling: Granted**

9:30 AM **12-50939** Donna Dell Solus
Ch 13
Trustee: Derham-Burk

Moving: David A. Boone

Opposing:

Matter: a) Motion to Void & Strip Second Lien of Lexington National Insurance Corp. by Debtor (29)

20

b) Motion to Void & Strip Third Lien of Lexington National Insurance Corp. by Debtor (32)

Comment **Tentative Ruling: Both motions are granted. See docket text order.**

9:30 AM **12-51125** Joselyn de Guzman
Ch 13
Trustee: Derham-Burk

Moving: Nanette Dumas

Opposing:

Matter: a) Motion to Dismiss Case pursuant to 11 U.S.C. section 109(e) by Trustee (18)

21

b) Opposition by Debtor

Comment Tentative Ruling: Motion is granted. By debtor's own admission, secured debt is at least \$1,175,000, which cannot be bifurcated because it's secured by debtor's principal residence.

9:30 AM **12-51224** Ursula Q Quinto
Ch 13
Trustee: Derham-Burk

Moving: Arnold L. Graff

Opposing:

Matter: Hearing re Objection to Confirmation of Plan by U.S. Bank N.A. (45)

22

Comment *STRICKEN FOR FAILURE TO TIMELY FILE A STATUS STATEMENT

9:30 AM **12-51954** Eric M. Narvaez
Ch 13
Trustee: Derham-Burk

Moving: Joe J. Solseng

Opposing:

Matter: a) Hearing re Objection to Confirmation of Plan by The Bank of New York Mellon (16)

23

b) Hearing re First Amended Objection to Confirmation of Plan by Trustee (17) *TRUSTEE'S OBJECTION WITHDRAWN 10/2/12

Comment Tentative Ruling: Objection overruled. Guidelines permit confirmation while loan modification is pending. Creditor controls length of loan mod process. If mod fails, debtor must amend plan or dismiss.

9:30 AM **12-51980** Walter Esaloo and
Ch 13 Esther Zayeh Esaloo
Trustee: Derham-Burk

Moving: David A. Boone

Opposing: Raymond F. Moats III

Matter: a) Motion to Void & Strip Lien with Third Federal Savings & Loan Assoc of Cleveland by Debtor (46)(cont fr 8/23, 9/20)

24

b) Response by Third Federal Savings

Comment Tentative Ruling: This matter will be called. If matter is not resolved, court will set evidentiary hearing re valuation dispute.

9:30 AM 12-52103 Robert Edgren

Ch 13

Trustee: Derham-Burk

Moving: Nanette Dumas

Opposing:

Matter: a) Motion to Dismiss Case Filed by Trustee (24)

25

b) Opposition by Debtor

Comment Tentative Ruling: Matter will be called.

9:30 AM 12-52327 Freddy A. Martinez

Ch 13

Trustee: Derham-Burk

Moving: Patricio A. Letelier

Opposing:

Matter: Motion to Value Line of Credit - Second Lien with BANK OF AMERICA N.A. by Debtor (40)

Comment Tentative Ruling: Motion is denied. Debtor cannot strip down a partially secured lien on his principal residence. 11 USC 1322(b)(2); Nobelman v. American Savings Bank, 508 U.S. 324 (1993). Also can't lien strip because property has co-owner/co-obligor.

26

9:30 AM 12-52519 Raul Esquibel Flores, Jr.

Ch 13

Trustee: Derham-Burk

Moving: Michelle R. Ghidotti

Opposing:

Matter: Hearing re Objection to Confirmation of Plan by ING Bank FSB (33)

Comment *STRICKEN FOR FAILURE TO TIMELY FILE A STATUS STATEMENT

27

9:30 AM 12-53358 Bruce R. Miles

Ch 13

Trustee: Derham-Burk

Moving: Brette L. Evans

Opposing: Katherine Sylvie Walker

Matter: a) Motion to Value Lien of Chase Bank by Debtor (11) (cont fr 8/23, 9/20)

28

b) Opposition by JPMorgan Chase

Comment Tentative Ruling: If matter not resolved, court will set evidentiary hearing re valuation dispute.

9:30 AM 12-53773 Gerald Fitzgerald and

Ch 13

Mary Fitzgerald

Trustee: Derham-Burk

Moving: T. Kevin Dougherty

Opposing:

Matter: Motion to Bifurcate & Dismiss Debtor (as of Gerald Fitzgerald) by Debtors (24)

29

*OFF CALENDAR - MOTION WITHDRAWN 10/8/12

9:30 AM **12-53987** Lashone Booker
Ch 13
Trustee: Derham-Burk

Moving:

Opposing:

Matter: Hearing re 2nd Amd Objection to Confirmation of Chapter 13 Plan by Trustee by Debtor (32)

Comment Tentative Ruling: Feasibility issue will be set for trial. Debtor's counsel must address trustee's argument that case fails § 109(e) debt limit test.

30

9:30 AM **12-54424** George Velez and
Ch 13 Lupie Anna Velez
Trustee: Derham-Burk

Moving:

Opposing:

Matter: Hearing re Objection to Confirmation of Chapter 13 Plan by Trustee (12)

Comment *STRICKEN FROM CALENDAR - NOTICE OF HEARING WAS A STATUS STATEMENT

31

9:30 AM **12-54679** Ezequiel Aguilar
Ch 13
Trustee: Derham-Burk

Moving: David A. Boone

Opposing: Edward T. Weber

Matter: a) Motion to Void & Strip Lien with JPMorgan Chase Bank, N.A., successor in Interest by purchase from the Federal Deposit Insurance Corporation as Receiver for Washington Mutual Bank/JPMorgan Chase Bank, N.A. by Debtor (16)

b) Opposition Filed by JPMorgan Chase Bank, NA

Comment Tentative Ruling: This matter will be called.

32

9:30 AM **12-54984** Bryan Patrick McCarthy and
Ch 13 Dianne Marie McCarthy
Trustee: Derham-Burk

Moving: David A. Boone

Opposing:

Matter: Motion to Void & Strip Lien of BofA, N.A./The Bank of New York Mellon by Debtor (17)

Comment Tentative Ruling: Motion is granted. See docket text order.

33

9:30 AM **12-55201** Luis Gustavo Delgado and
Ch 13 Dulce Amor Delgado
Trustee: Derham-Burk

Moving: Sidney C. Flores

Opposing: Arnold L. Graff

34

Matter: a) Motion for Valuation of Debtors' Residence and Avoidance of the Junior Lien by Debtor (13)

b) Opposition by Wells Fargo Bank, N.A.

Comment Tentative Ruling: This matter will be called. How much time does Wells Fargo need to complete full appraisal, if one has not been done?

9:30 AM **12-55209** Maria Del Rocio Martinez Correa
Ch 13
Trustee: Derham-Burk

Moving: David A. Boone

Opposing:

35

Matter: a) Motion to Void & Strip Lien of Bank of America, N.A./GreenPoint Mortgage Funding, Inc./Mortgage Electronic Registration Systems, Inc. by Debtor (20)

b) Answer by GreenPoint Mortgage - Caroline Djang

c) Motion to Void & Strip Lien of Housing and Community Services Division City of Santa Clara/City of Santa Clara by Debtor (23)

Comment Tentative Ruling: Matter (Greepoint) will be called. Motion is granted as to Santa Clara (item c); see docket text order.

9:30 AM **12-55302** Johnson Hormoz and
Ch 13 Sharokeena Lazar Hormoz
Trustee: Derham-Burk

Moving: David A. Boone

Opposing:

36

Matter: Motion to Void And Strip Lien of Chase Home Finance/Washington Mutual Bank, FA/JPMorgan Chase Bank, N.A. by Debtor (20)

Comment Tentative Ruling: Motion is granted. See docket text order.

9:30 AM **12-56679** Ygnacia Zamora
Ch 13
Trustee: Derham-Burk

Moving: James Jingming Cai

Opposing:

37

Matter: Motion to Continue the Automatic Stay As to All Creditors by Debtor (12)

Comment Tentative Ruling: granted

9:35 AM **11-52464** Patricia A. Giordano

Ch 13

Trustee: Derham-Burk

Moving: Angie YC Tong

Opposing:

Matter: Hearing re: Objection to Claim No. 5 (Aurora Loan Services) (48)

Comment Tentative Ruling: Matter will be called.

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UNCONTESTED CALENDAR – CONFIRMATION ADVANCED PER RESOLUTION

JUDGE JOHNSON – October 18, 2012 at 9:30 a.m.

**With respect to the following cases, objections were filed and subsequently withdrawn;
therefore, the Court confirms the following cases:**

The following cases shall be **CONFIRMED**:

| | |
|--|------------------|
| 39. SARKIS BENJAMIN 11-5-0050 SLJ | ATTY – FULLER |
| 40. SON VO 11-5-1243 SLJ | ATTY – MARGOLIS |
| 41. JULIE BRODERICK 11-5-4354 SLJ | ATTY – FARLEY |
| 42. STEPHEN & ALMA STRAUSS 11-5-8393 SLJ | ATTY – MOORE |
| 43. TRISHA & DWAIN CHRISTENSEN 11-6-0120 SLJ | ATTY – LIPOWITZ |
| 44. SALVADOR CAMPUZANO 11-6-0650 SLJ | ATTY – VOISENAT |
| 45. LUDOVICO & EVANGELINE MEJIA 11-6-1720 SLJ | ATTY – MOORE |
| 46. ELIA MARTINEZ 12-5-2901 SLJ | ATTY – MOORE |
| 47. GARY & JULIE RAUL 12-5-3222 SLJ | ATTY – VAN VLEAR |

48. MARIA VELAZQUEZ
12-5-4265 SLJ

ATTY – EDGAR

49. DANIEL & LINDA SEMIDES
12-5-5265 SLJ

ATTY – GOLD & HAMMES

50. MELODIE SANBORN
12-5-5529 SLJ

ATTY – BINDER & MALTER

51. RAMON CASTRO
12-5-5780 SLJ

ATTY – NOCOS & KUDIYA

52. HEATHER SIBLEY
12-55952 SLJ

ATTY – MACEY BANKRUPTCY LAW

53. DAN TA &
THUY VU
12-5-5980 SLJ

ATTY - BOONE

The court has determined that it is in the best interests of creditors and the estates to hold the Confirmation Hearings earlier than 21 days after the meetings of creditors. No objections to the earlier hearing have been filed; therefore, the following plans are either confirmed or placed on the Trustee's Pending List:

**INITIAL CONFIRMATION CALENDAR FOR POST BANKRUPTCY REFORM ACT CASES
WITH NO OUTSTANDING OBJECTIONS**

JUDGE JOHNSON – October 18, 2012 at 9:30 a.m.

The following cases shall be **CONFIRMED**:

54. ANTONIETTA SMALL
12-5-6048 SLJ

ATTY – FULLER

55. BREGITH & ROBERT REVESTIR
12-5-6064 SLJ

ATTY – ERICKSEN

56. DIANE CHERMAK
12-5-6076 SLJ

ATTY – SHULMAN

57. ADRIANA HARO-ARELLANO
12-5-6114 SLJ

ATTY – GOLD & HAMMES

58. ADELINA PEREZ
12-5-6121 SLJ

ATTY – CENTRAL COAST BANKRUPTCY

59. EMILY HUBBERT
12-5-6123 SLJ

ATTY – GOLD & HAMMES

**INITIAL CONFIRMATION CALENDAR FOR POST BANKRUPTCY REFORM ACT CASES
WITH OUTSTANDING OBJECTIONS**

JUDGE JOHNSON – October 18, 2012 at 9:30 a.m.

From: 341 MEETING OF CREDITORS, September 28 & October 1, 2012

TO BE PLACED ON TRUSTEE'S PENDING LIST:

| | |
|---|---|
| 60. MARK BAZAR 12-5-6036 SLJ | ATTY – MILLER OBJECTION BY – AMERICAN HONDA FINANCE |
| 61. REBECCA GALLARDO 12-5-6045 SLJ | ATTY – MORAN OBJECTION BY – TRUSTEE, CITIBANK & HDT LEASING LLC |
| 62. RAFAEL ALABAN 12-5-6052 SLJ | PRO SE OBJECTION BY- TRUSTEE |
| 63. GIUSEPPE TRAINO 12-5-6057 SLJ | ATTY – HENSHAW OBJECTION BY – TRUSTEE & US BANK |
| 64. MATTHEW & GERTRUDE VOLKMAN 12-5-6058 SLJ | ATTY – SILVEIRA OBJECTION BY – GREENPOINT MORTGAGE |
| 65. PHUOC LE 12-5-6065 SLJ | ATTY – PARR OBJECTION BY - TRUSTEE |
| 66. KWAI LAI 12-5-6094 SLJ | ATTY – FULLER OBJECTION BY - TRUSTEE |
| 67. MARCEL SOROS 12-5-6102 SLJ | ATTY – MEHR OBJECTION BY – TOYOTA MOTOR CREDIT |
| 68. SUZANNE URBAN 12-5-6115 SLJ | ATTY – BOONE OBJECTION BY – TRUSTEE |

69. RONALD & CYNTHIA STILTZ
12-5-6126 SLJ

ATTY – BOONE
OBJECTION BY - TRUSTEE

70. ROGELIO CHAVEZ &
EVANGELINA MAGANA
12-5-6133 SLJ

ATTY – PHAN
OBJECTION BY – TRUSTEE

71. SAMUEL & AIMEE BALBOA
12-5-6145 SLJ

ATTY – STEBURG
OBJECTION BY- TRUSTEE

72. PETRA RIOS &
JOSE AYALA
12-5-6146 SLJ

ATTY – SCHEIN & CAI
OBJECTION BY - TRUSTEE

73. SCOTT NATTRASS
12-5-6158 SLJ

ATTY – GREENE
OBJECTION BY – TRUSTEE

74. ROBERT CARUSO
12-5-6167 SLJ

ATTY – MORAN
OBJECTION BY – TRUSTEE

75. ARTHUR FLORES
12-5-6199 SLJ

ATTY – GUTCHINOV
OBJECTION BY – TRUSTEE & WELLS
FARGO

76. MICHELLE RAPLEY
12-5-6205 SLJ

ATTY – BULLOCK
OBJECTION BY - TRUSTEE